

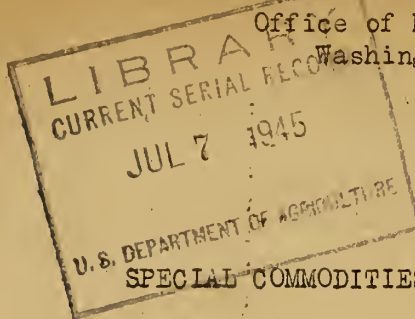
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WAR FOOD ADMINISTRATION

Office of Marketing Services

Washington 25, D. C.



July 1, 1945

To: All Divisions and Sections, Special Commodities Branch

From: H. C. Albin, Chief, Special Commodities Branch

Subject: Food Order Administration

OMS Instruction 111.1 authorizes the commodity branches to "develop and administer food orders," except set-aside orders, which are developed at the request of CCC but administered by the commodity branches. OMS Instruction 221 (formerly Director's Memorandum No. 42) sets forth the general OMS procedures for order administration, and shall be used by Order Administrators as their basic instruction. The following procedures apply chiefly to operations at the Branch level.

PART I - PREPARATION AND CLEARANCE

A. Memorandum of Intention

To initiate an order, the commodity representative shall prepare a Memorandum of Intention (in an original and 12 white copies) from the Chief of the Branch to the Director. The memorandum shall be routed to the Chief of the Commodity Division, the Chief of the Operational Planning and Services Division, the Assistant Branch Chief and the Branch Chief.

The Director has requested that Memoranda of Intention be submitted not later than 1:00 p.m. on the day before the day on which the Order Review and Clearance Committee meets (10:30 Tuesdays and Fridays).

B. Food Order Docket

If the Memorandum of Intention is approved, the commodity representative shall submit a food order docket containing the following documents:

FOOD ORDER DOCKET

Document	Prepared by	Copies
The proposed order	Office of Solicitor & Commodity Representative	Original 8 whites salmon master ditto
Memorandum of transmittal from the Director to the Administrator	Commodity Representative	Original Duplicate-Orig. 12 whites
Delegation of Authority to administer order (Form FDA-304)	Commodity Representative	Original 4 copies
Summary for release to trade and industry	Marketing Reports Division	Original 3 whites
Solicitor's opinion	Office of the Solicitor	

1. General Instructions for Preparing the Docket

- a. When the proposed order involves problems of inter-agency understanding, the docket shall contain a memorandum of understanding (original and 5 white copies) to be signed by the interested agencies. If not applicable, a note to that effect shall be placed in the docket.
- b. The memorandum of transmittal should contain objections, anticipated difficulties and possible sources of complaint against the order, in addition to the items specified in OMS Instruction 221.A.
- c. While the order is in the preparatory stage, the commodity representative shall furnish the Reproduction and Distribution Section with any information it may require to prepare an adequate mailing list.
- d. If the order is applicable to any U. S. territory or possession, a statement to that effect shall be incorporated in the order.

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- e. Forms to be used in connection with the order shall be prepared by the commodity representative and cleared according to the established procedure for clearance of forms.
- f. All of the contents of the docket shall be placed loosely in a folder.

2. Routing the Docket for Approval

- a. A routing slip shall be attached to the completed docket and shall be initialed by:

The Commodity Representative
The Chief of the Commodity Division
The Chief of the Operational Planning
and Services Division
The Assistant Chief of the Branch

- b. The Chief of the Branch will sign or initial the appropriate documents in the docket.
- c. The Vice and Agreements Unit is responsible for securing the necessary clearance and approval of the docket after it leaves the Branch, and shall return approved copies of the documents to the Order Administrator.

C. Uniform Filing System

The Order Administrator shall maintain a uniform filing system consisting of a master file of the order, a master file of each amendment, a chronological file of the monthly summaries, a numerical file of the petitions and appeals under the order, and an alphabetical file of the reports pertaining to compliance with the order. A separate folder shall be used for each appeal and each compliance case.

The master file of the Order shall be set up as follows:

- a. Approved copy of the Memorandum of Intention
- b. Approved copy of the Order
- c. Approved copy of the Delegation of Authority (FDA-394)
- d. Any special delegation of authority from the Deputy Director
- e. Approved copy of the summary to trade and industry (not to be confused with the monthly summary)
- f. Approved copy of the memorandum of transmittal
- g. Approved copy of the Solicitor's opinion
- h. Approved copy of the set of Questions and Answers
- i. Interpretations

The master file of each amendment should contain the items listed above, with the exception of Item c, and the possible exception of Items h and i. The monthly summaries discussed in Part II of this memorandum should be filed in a separate folder.

D. Director's War Food Orders

The procedure established for War Food Orders shall apply to Director's War Food Orders, except that the memorandum of transmittal accompanying the order shall be from the Branch Chief to the Director.

E. Amendments

Amendments to orders shall be prepared, cleared and executed in the same manner as that prescribed for the original food orders.

F. Clearance of Food Orders Proposed by Other Branches

In accordance with OMS Instruction 221, each branch is given advance notice of the orders and amendments proposed by other branches.

The Authorities and Procedures Section shall receive such notices, circulate them among the commodity divisions, and obtain copies of any proposed orders which the divisions may wish to review.

Whenever possible, questions or objections to the orders shall be taken up directly with the appropriate Order Administrator of the branch which originated the order. If an agreement cannot be reached in this manner, the chief of the commodity division shall prepare a memorandum from the Chief of the Branch to the Secretary of the Order Review and Clearance Committee, outlining completely his objections and the reasons therefor. If more than one division is concerned, it shall be the responsibility of the Chief of the Operational Planning and Services Division to prepare a memorandum expressing the views of the Branch.

Memoranda to the Order Review and Clearance Committee shall be routed for clearance to the Chief, Authorities and Procedures Section, who shall maintain a complete file of the objections submitted by this Branch.

PART II - FOOD ORDER EDUCATION

A. Loose-Leaf Dockets for Regional and Field Offices

The Office of Supply Regional Offices of CCC and the Field Offices of the Special Commodities Branch are responsible for assisting in the administration of Special Commodities Branch food orders, and must be provided with educational material which will enable them to become familiar with the background, provisions, interpretations and applications of each order.

This material, which is assembled in the Regional and Field Offices in Loose-Leaf Dockets, should include the following:

1. Mimeographed or dittoed copies of the documents contained in the Master File of the Order.
2. A mimeographed set of questions and answers anticipating the probable questions which the Regional and Field Offices will be called upon to answer.
3. Monthly summaries containing current information on amendments, constructions and interpretations, typical petitions and compliance cases, problems in administration, trends in activity, and any other information which may be of value in administering the order.

The monthly summaries shall be issued on the same day of each month as the effective date of the order. The initial summary shall be issued one month following the effective date of the order and shall consist of a brief but comprehensive survey of the order. The following items shall be included in the initial summary:

- a. The Reason for the Order.
 - (1) The need for the order
 - (2) Purpose to be attained
- b. Provisions of the Order
 - (1) Brief summary of the most important provisions
 - (2) Constructions or interpretations of the terms used; where such constructions or interpretations are desirable
 - (3) Explanation of the method to be used in filing reports or other data required by the order.
- c. Background of Industry -- A brief statement of how the industry operates.
 - (1) Production
 - (2) Distribution
- d. Any other general information which the Order Administrator believes should be given to the regions.

Where the activity under the order during the month has been of a purely routine nature, the summary need include only a statement to that effect. However, it should be recognized that the summary is the medium through which the Order Administrator can keep the field informed of the administrative difficulties under the order and obtain cooperation from the field.

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The monthly summaries shall be issued as memoranda, and shall be set up in the following manner:

WAR FOOD ADMINISTRATION
Office of Marketing Services
Washington 25, D. C.

Date

To: All Regional Offices

From: _____, Administrator, WFO 18, Tea

Subject: Summary No. 2 for Inclusion in the Loose-Leaf Docket
of WFO 18

4. Clearance and Distribution of Food Order Material to be Included in the Loose-Leaf Docket

All statements of policy, administrative ruling or interpretation of the order shall be prepared in collaboration with the Marketing Reports Division, for the approval and signature of the Director, and shall be addressed to the Regional Directors. Questions involving legal problems shall be submitted to the Director for interpretation by the Office of the Solicitor.

Within the Branch, questions and answers, summaries, and other educational material shall be cleared through the same channels as the orders. After approval by the Chief of the Branch, however, the Authorities and Procedures Section shall be responsible for securing clearance outside the Branch. That Section shall also be responsible for arranging with the Reproduction and Distribution Section for the distribution of such material to the Branch field representatives and the Regional Offices.

B. Educational Programs for Trade and Industry and the General Public

1. Responsibility of the Order Administrator

The Order Administrator shall be responsible for developing a general educational program for each order that he administers. Order education should be directed primarily to the trades and industries affected; however, provision should be made for acquainting the general public with the objectives of the order.

Each educational program shall be planned to conform to the general order education program established by the Director and shall be subject to the general instructions described below.

2. Industry and Trade Organizations

The Order Administrator shall maintain close relations with the various trade and industry organizations in order to secure their advice as to the best methods of approach in order education.

3. The Marketing Reports Division

The Order Administrator shall supply the Marketing Reports Division with factual and technical information to be used in preparing educational material for general distribution or publication.

PART III - PETITIONS AND APPEALS

A. Responsibility of the Order Administrator

Responsibility for denying petitions for relief from hardship under the Order is vested in the Order Administrator. In those cases where the Order Administrator believes the petition should be granted, he shall prepare a letter to the petitioner for the signature of the Director. The letter, together with the petition folder, shall be routed to (1) Division Chief, (2) Branch Chief, and (3) Director.

In the administration of those orders which require dual letters when relief is granted, it will be necessary for both letters to be forwarded to the Director's office simultaneously. The Cocoa Bean Order (WFO 25) is an example of this type of order, since it is necessary to notify a supplier when relief is granted to a petitioner, and the letter to the supplier, which is prepared for the Order Administrator's signature, should not be signed or dated until the petition is signed by the Director.

Each chief whose division administers any order shall be responsible for determining that correspondence granting relief and forwarded for the Director's signature is actually signed by the Director prior to the issuance of any correspondence indicating that the relief requested has been granted.

The granting of a petition or appeal which would adversely affect the Civilian Food Requirements Branch and Requirements and Allocations Control must be cleared with the interested parties.

B. Files

A separate folder, headed by the name of the petitioner and a numerical assignment as given below, shall be prepared for each petition. Each folder shall contain:

- (a) Petition for exception.
- (b) Data pertaining to verification of facts presented, compliance, if necessary, and all other material utilized in the determination of the appeal.
- (c) Copy of the decision.

C. Records and Reports

1. Each petition shall be numbered in the order received, using the Order No. as a prefix. For example, petitions under the Tea Order shall be numbered 18-1, 18-2, 18-3, etc. All correspondence in reference to an appeal or a petition must refer to the number assigned the particular petition or appeal.
2. A weekly report on the status of petitions under each order shall be transmitted each Saturday morning to the Chief of the Authorities and Procedures Section, where a complete report for the Branch shall be compiled and submitted to the Assistant Deputy Director. Where relief is granted, the report should contain a statement as to the amount of set-aside materials released, the use to which such materials are to be put, and the Government Agency, if any, which is to secure such materials, in the event that the effect of granting the petition is to release material set aside by a particular order or amendment.

D. Notice to Field Offices of Decisions on Petitions

In cases where a petition originates in the Western Region or the New England States, an extra copy of each decision, whether prepared for the signature of the Order Administrator, or for that of the Director, shall be provided for the appropriate Field Representative of this Branch.

In those cases where the letter to the petitioner is prepared for the signature of the Director, the copy marked for the field office shall be retained in the office of the Order Administrator until notification is received that the Director has signed the letter. At that time the copy shall be forwarded to the field office by the Order Administrator.

PART IV - COMPLIANCE PROCEDURE

Voluntary compliance activities are the sole responsibility of the Commodity Branch. Responsibility for enforcement of food order regulations is vested in the Office of Investigatory Services, WFA.

A. Voluntary Compliance Activities

The cases discussed under this heading are those which require no investigation.

1. Education

In addition to the educational activities outlined in Part II above, it is the responsibility of the Order Administrator to issue Questions and Answers, Summaries, press releases, etc., and in addition to write letters of explanation of the order to any companies which appear to misunderstand the provisions of the order.

2. Warning Letters

If it appears from an examination of reports required by the order, or from any other reliable source, that a company has committed minor violations of the order, the Order Administrator may write to the company, verifying the facts of the violation and asking for an explanation. If the company admits the violation, the explanation appears plausible, and the Order Administrator is satisfied that the violation does not warrant an investigation, then he may prepare a Warning Letter for his own signature (Warning Letter should not be signed or dated until returned by the OIS) addressed to the violator, calling his attention to the violation and warning him that a repetition of the violation may lead to administrative sanctions or criminal prosecution. A saving clause must be inserted in the letter as indicated in OMS Instruction 221.F. Warning Letters should be prepared in the regular number of copies of any memorandum, plus two additional white copies marked for the Office of Investigatory Services (one copy will be forwarded by OIS to the proper Regional Office and the other copy will remain in OIS files in Washington). It is expected that the Order Administrator will be vigilant in scrutinizing future activities to see that the violating company is adhering strictly to the order. The Order Administrator and Chief of the Division, after initialing the yellow copy of the Warning Letter, should send the file and the Warning Letter to the Chief of the Operational Planning and Services Division for control purposes. The file and letter will then be forwarded to the OIS for concurrence. If they approve, they will initial the yellow copy, and will return the file and

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Warning Letter to the Chief, Operational Planning and Services Division for transmittal to the Order Administrator. The latter will thereupon date, sign and mail the Warning Letter, and forward two copies thereof to the OIS.

3. Adjustment Letters

Where a minor violation of a War Food Order is discovered and a letter sent to the violator for verification of facts, the Order Administrator, upon receipt of a reply from the violator, may elect to write a letter to the violator, inviting him to make proposals for a compensatory adjustment. The procedure for issuing an adjustment letter is identical to that set forth for issuing Warning Letters. Copies of previously approved adjustment letters may be examined in the office of the Chief of the Operational Planning and Services Division. The theory and procedure for issuing an adjustment letter are set out in OMS Instruction 221.F.

In the conservation orders administered by this Branch it probably will be more effective to issue an adjustment letter rather than a Warning Letter, while on the fish set-aside order, the Warning Letter probably will be more suitable.

B. Enforcement

The procedure outlined in this section involves cases that require investigation.

1. Referral of Cases to Office of Investigatory Services

When a violation is brought to the attention of an Order Administrator, which in his opinion is sufficiently serious to require an investigation, the procedure as outlined below will be followed:

The Order Administrator shall:

- a. Prepare Form FDA-355 (original and 3 copies) setting forth all information pertinent to the violation.
- b. Sign all copies of the form.
- c. Attach a set of copies of all pertinent correspondence concerning the violation to each copy of Form FDA-355.
- d. Forward the completed form with all copies and attachments to the Chief of the Division.

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The Division Chief shall initial one copy of the form and forward the complete file to the Chief of the Operational Planning and Services Division.

The Operational Planning and Services Division will set up a control for following the case and keeping the Order Administrator advised of developments. The Chief of the Operational Planning and Services Division shall initial the same copy of the form which was initialed by the Chief of the commodity division and return that copy to the Order Administrator. The original and two copies of the form will be forwarded to the Office of Investigatory Services.

Any supplemental information submitted on a case to OIS should be in memorandum form from the Order Administrator to Director of Investigatory Services in an original and three copies for routing as indicated above.

2. Disposal of Cases

All of the War Food Orders handled by this Branch have been classified as "nonregionalized", which means that all investigative reports must be reviewed by the commodity branch in Washington and a recommendation written before the Regional Office may dispose of a case. Therefore, in the future, each Order Administrator will receive a copy of the investigative report, regardless of whether he requested the investigation or whether it originated in the field, and he will be expected to write a memorandum to the Director of Investigatory Services, recommending disposition of the case.

The Order Administrator may recommend the following types of disposition of compliance cases:

- a. Dismissal of case
- b. Warning Letter
- c. Adjustment Letter
- d. Suspension Order
- e. Injunction
- f. Criminal Prosecution

In making the recommendation, the Order Administrator should indicate the reason for the recommendation and point out any information that may be of value to the Regional Director in making the final decision as to disposition of the case. This recommendation should be in memorandum form from the Order Administrator to the Director of Investigatory Services in an original and three copies, and routed in the same manner as other compliance matters indicated previously.

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The Operational Planning and Services Division shall act as a focal point for all compliance cases and shall maintain liaison relations with the OIS. Arrangements have been made with the OIS for all reports and memoranda pertaining to Special Commodities Branch cases to be forwarded to the Operational Planning and Services Division.

PART V - FOOD ORDER ACTIVITIES IN THE FIELD

The Field Representatives of the Branch have been assigned the following functions:

1. Industry Assistance - To provide the industries and individuals affected by our orders with up-to-date information and assistance.
2. Compliance - To refer apparent violations of food orders to the Operational Planning and Services Division.
3. Special Assignments - To carry out special assignments related to order administration at the request of our Order Administrators.